

Attachment 2

SUM-100

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT: KAWEAH HEALTH MEDICAL CENTER; EVA
(**AVISO AL DEMANDADO**): HIRWE, M.D., SHAMIKA BANKS M.D. and DOES 1
through 250

YOU ARE BEING SUED BY PLAINTIFF: MARIBEL VASQUEZ and
(**LO ESTÁ DEMANDANDO EL DEMANDANTE**): JOSEPH RIOS

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form. If you want the court to hear your case, there may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. (AVISO) Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is: Tulare County Superior Court
(El nombre y dirección de la corte es):
221 S. Mooney Boulevard
Visalia, California 93291

CASE NUMBER:
(Número del Caso):

VCU297964

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: Bruce G. Fagel, SBN 103674
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Law Offices of Bruce G. Fagel and Associates 9200 West Sunset Boulevard, Suite 670, West Hollywood, California 90069; Office No. (310) 516-9035

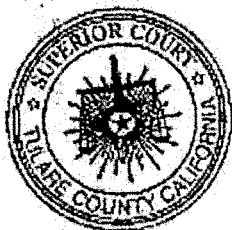
DATE:
(Fecha): 05/02/2023

Stephanie Cameron

Clerk, by
(Secretario)Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

**NOTICE TO THE PERSON SERVED:** You are served

- ☒ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):
- ☐ on behalf of (specify):
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
- ☐ by personal delivery on (date):

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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Law Offices of Bruce G. Fagel and Associates, State Bar No. 103674 9200 West Sunset Boulevard, Suite 670 West Hollywood, California 90069 TELEPHONE NO.: (310) 516-9035 FAX NO. (Optional): (310) 928-7763 E-MAIL ADDRESS: ATTORNEY FOR (Name): Plaintiffs Maribel Vasquez and Joseph Rios	FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of Tulare 05/02/2023 By: Sevanah Trevino, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF TULARE STREET ADDRESS: 221 S. Mooney Boulevard MAILING ADDRESS: CITY AND ZIP CODE: Visalia, California 93291 BRANCH NAME: Tulare County Superior Court	CASE NUMBER: <div style="font-size: 1.2em; font-weight: bold;">VCU297964</div>
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
CASE NAME: MARIBEL VASQUEZ and JOSEPH RIOS v. KAWEAH HEALTH MEDICAL CENTER	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input checked="" type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input checked="" type="checkbox"/> Large number of separately represented parties b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve c. <input type="checkbox"/> Substantial amount of documentary evidence	d. <input type="checkbox"/> Large number of witnesses e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court f. <input type="checkbox"/> Substantial postjudgment judicial supervision
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3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): 4

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: May 2, 2023

Bruce G. Fagel

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

(TYPE OR PRINT NAME)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

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INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES**Auto Tort**

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/
Wrongful Death
Product Liability (not asbestos or toxic/environmental) (24)
Medical Malpractice (45)
Medical Malpractice—
Physicians & Surgeons
Other Professional Health Care
Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (not medical or legal)
Other Non-PI/PD/WD Tort (35)
Employment
Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (not unlawful detainer or wrongful eviction)
Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence)
Negligent Breach of Contract/
Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (not provisionally complex) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (not eminent domain, landlord/tenant, or foreclosure)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (non-domestic relations)
Sister State Judgment
Administrative Agency Award (not unpaid taxes)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (not specified above) (42)
Declaratory Relief Only
Injunctive Relief Only (non-harassment)
Mechanics Lien
Other Commercial Complaint Case (non-tort/non-complex)
Other Civil Complaint (non-tort/non-complex)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (not specified above) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

- ## Medical Malpractice

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PLAINTIFF/PETITIONER: Maribel Vasquez and Joseph Rios DEFENDANT/RESPONDENT: Kaweah Health Medical Center, et al.,	CASE NUMBER: VCU 297964
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4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)

Plaintiffs allege that Defendant negligently monitored, cared for and treated Maribel Vasquez's pregnancy and labor. As a result of this negligence, Defendants caused the death of Maribel Vasquez's newborn baby Melody Rios. Nature and extent of damages amount unknown at present. Discovery and depositions are ongoing.

☐ (If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. Jury or nonjury trial

The party or parties request ☒ a jury trial ☐ a nonjury trial. (If more than one party, provide the name of each party requesting a jury trial):

6. Trial date

a. ☐ The trial has been set for (date):

b. ☒ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain):

c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):

7. Estimated length of trial

The party or parties estimate that the trial will take (check one):

a. ☒ days (specify number): 15-20 DAYS

b. ☐ hours (short causes) (specify):

8. Trial representation (to be answered for each party)

The party or parties will be represented at trial ☐ by the attorney or party listed in the caption ☒ by the following:

a. Attorney: BRUCE G. FAGEL

b. Firm: Law Offices of Bruce G. Fagel & Associates

c. Address: 9200 West Sunset Boulevard, Suite 670, West Hollywood, Ca 90069

d. Telephone number: 310 516 9035

f. Fax number: 310 928 7763

e. E-mail address: brucefagel@fagellaw.com

g. Party represented: Plaintiffs

☐ Additional representation is described in Attachment 8.

9. Preference

☐ This case is entitled to preference (specify code section):

10. Alternative dispute resolution (ADR)

a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 of the California Rules of Court for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel ☐ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.

b. **Referral to judicial arbitration or civil action mediation (if available).**

(1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3) ☒ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. (specify exemption): Rule 3.811(b)(6)

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PLAINTIFF/PETITIONER: Maribel Vasquez and Joseph Rios DEFENDANT/RESPONDENT: Kaweah Health Medical Center, et al.,	CASE NUMBER: VCU 297964
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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form are willing to participate in the following ADR processes (<i>check all that apply</i>):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (<i>attach a copy of the parties' ADR stipulation</i>):
(1) Mediation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (date): <input type="checkbox"/> Agreed to complete mediation by (date): <input type="checkbox"/> Mediation completed on (date):
(2) Settlement conference	<input type="checkbox"/>	<input type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (date): <input type="checkbox"/> Agreed to complete settlement conference by (date): <input type="checkbox"/> Settlement conference completed on (date):
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (date): <input type="checkbox"/> Agreed to complete neutral evaluation by (date): <input type="checkbox"/> Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete judicial arbitration by (date): <input type="checkbox"/> Judicial arbitration completed on (date):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete private arbitration by (date): <input type="checkbox"/> Private arbitration completed on (date):
(6) Other (<i>specify</i>):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (date): <input type="checkbox"/> Agreed to complete ADR session by (date): <input type="checkbox"/> ADR completed on (date):

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PLAINTIFF/PETITIONER: Maribel Vasquez and Joseph Rios DEFENDANT/RESPONDENT: Kaweah Health Medical Center, et al.,	CASE NUMBER: VCU 297964
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11. Insurance

- a. ☐ Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: ☐ Yes ☐ No
- c. ☐ Coverage issues will significantly affect resolution of this case (*explain*):

12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

☐ Bankruptcy ☐ Other (*specify*):

Status:

13. Related cases, consolidation, and coordination

- a. ☐ There are companion, underlying, or related cases.
- (1) Name of case:
- (2) Name of court:
- (3) Case number:
- (4) Status:
- ☐ Additional cases are described in Attachment 13a.
- b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by (*name party*):

14. Bifurcation

- ☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

15. Other motions

- ☐ The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):

16. Discovery

- a. ☐ The party or parties have completed all discovery.
- b. ☐ The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
Plaintiff	Written Discovery	within 6 months
Plaintiff	Depositions of percipient witnesses	within 6 months
Plaintiff	Depositions of expert witnesses	within 6 months

- c. ☐ The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

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PLAINTIFF/PETITIONER: Maribel Vasquez and Joseph Rios
 DEFENDANT/RESPONDENT: Kaweah Health Medical Center, et al.,

CASE NUMBER:
 VCU 297964

17. Economic litigation

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

18. Other Issues

- ☐ The party or parties request that the following additional matters be considered or determined at the case management conference (specify):

19. Meet and confer

- a. ☐ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):
- b. ☐ After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

20. Total number of pages attached (if any): _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: 08/03/2023

Vadim Braslavsky

(TYPE OR PRINT NAME)



Vadim Braslavsky

(SIGNATURE OF PARTY OR ATTORNEY)



(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California, I am over the age of eighteen years and not a party to the within action; my business address is **9200 West Sunset Boulevard, Suite 670, West Hollywood, California 90069**, My Electronic address is cynthia@fagellaw.com.

On **AUGUST 3, 2023**, I served the foregoing document (s) described as **CASE MANAGEMENT STATEMENT**, on the following parties in this action as set forth on the attached service list as follows:

SEE ATTACHED SERVICE LIST

- ☐ **BY MAIL:** I placed a true copy of the above captioned documents for collection and processing for mailing, following this business' usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.
- ☐ **BY OVERNIGHT MAIL:** By sealing the envelope and placing it for collection and overnight delivery in a box regularly maintained by an overnight delivery service with delivery fees paid or provided for in accordance with ordinary business practices.
- ☐ **BY ELECTRONIC TRANSFER/VIA FACSIMILE:** I caused all of the pages of the above-entitled document(s) to be sent to the recipients noted above via electronic transfer (FAX) at the respective telephone numbers indicated above.
- ☒ **BY ELECTRONIC SERVICE:** Pursuant to Code of Civil Procedure §1010.6(a)(2)(A)(i), 1010.6(a)(2)(A)(ii), and/or necessity resulting from the Safer at Home order/regulation issued by the City and County of Los Angeles effective March 20, 2020: from my email address cynthia@fagellaw.com to the e-mail address(es) listed on the ATTACHED SERVICE LIST.
- ☒ **STATE:** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **AUGUST 3, 2023**, at West Hollywood, California.

Cynthia Mardis

Cynthia Mardis

Law Offices
of
Bruce G. Fagel
&
Associates

SERVICE LIST

Maribel Vasquez, Joseph Rios vs. Kaweah Delta Health Care District

Kevin E. Thelen, Esq.
LeBEAU THELEN
5001 East Commercenter Drive, Suite 300
Bakersfield, California 93389-2092
Attorney for Defendant, Shimeka Banks. MD
kthelen@lebeauthelen.com
tcherry@lebeauthelen.com

Richard Salinas, Esq.
SALINAS LAW GROUP
8405 North Fresno Street, Suite 150
Fresno, California 93720
Attorney for Defendant, Kaweah Health Medical Center
rsalinas@salinaslg.com

Law Offices
of
Bruce G. Fagel
&
Associates

1 BRUCE G. FAGEL, SBN 103674
2 brucefagel@fagellaw.com
3 VADIM BRASLAVSKY, SBN 223920
4 vadimbraslavsky@fagellaw.com
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Superior Court of California,
County of Tulare
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By: Leticia Hernandez-Sandoval,
Deputy Clerk

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF TULARE**
11

12
13 MARIBEL VASQUEZ and JOSEPH
14 RIOS

15 Plaintiffs

16 vs.

17 KAWEAH HEALTH MEDICAL CENTER;
18 EVA HIRWE, M.D., SHAMIKA BANKS
M.D. and DOES 1 through 250

19 Defendant
20

Case No. VCU 297964

FIRST AMENDED COMPLAINT FOR:

1. **WRONGFUL DEATH**
2. **SURVIVAL**
3. **NEGLIGENT INFLICTION
OF EMOTIONAL DISTRESS**

21 Plaintiff alleges, on information and belief, as follows:

22 1. The true names, identities, or capacities, whether individual, associate, corporate
23 or otherwise of Defendants DOES 1 through 250, inclusive, are unknown to Plaintiffs who,
24 therefore, sue said Defendants by such fictitious names. When the true names, identities, or
25 capacities of such fictitiously designated Defendants are ascertained, Plaintiffs will ask leave of
26 Court to amend the Complaint to insert said true names, identities and capacities, together with
27 the proper charging allegations.
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1 2. Plaintiffs are informed and believe and thereon allege that each of the Defendants
2 sued herein as a DOE is responsible in some manner for the events and happenings herein referred
3 to, thereby legally causing the injuries and damages to the Plaintiffs as herein alleged.

4 3. All of the facts, acts, events and circumstances herein mentioned and described
5 occurred in the County of Tulare, State of California, and all Defendants are residents of the
6 County of Tulare, State of California, doing business in said County, State of California.

7 4. At all times herein mentioned, Defendants EVA HIRWE, M.D., SHAMIKA
8 BANKS M.D. and DOES 1 through 50, inclusive, were, and now are, physicians and surgeons,
9 holding themselves out as duly licensed to practice their profession under and by virtue of the
10 laws of the State of California and were, and now are, engaged in the practice of their profession
11 in the State of California.

12 5. At all times herein mentioned, Defendants DOES 51 through 100, inclusive, were,
13 and now are, registered nurses, nurse practitioners, nurse midwives, licensed vocational nurses,
14 practical nurses, physician assistants, aids, technicians, attendants, students or other paramedical
15 personnel, holding themselves out as duly able to practice their profession under and by virtue of
16 the laws of the State of California and were, and now are, engaged in the practice of their
17 profession in the State of California and acting as agents, employees and servants of some or all
18 of the other Defendants within the course and scope of said agency or employment.

19 6. At all times herein mentioned, Defendants KAWEAH DELTA MEDICAL
20 CENTER, and DOES 101 through 150, inclusive, were at all times herein mentioned duly
21 organized California corporations or hospitals or medical and surgical free standing facilities,
22 existing under and by virtue of the laws of the State of California and other States; that said
23 Defendant corporations, hospitals and surgery centers and the remaining Defendants, and each of
24 them, owned, operated, managed and controlled a general hospital facility or surgery center
25 within the County of Tulare, State of California, held out to the public at large and to the Plaintiffs
26 herein, as properly equipped, fully accredited, competently staffed by qualified and prudent
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1 personnel and operating in compliance with the standard of due care maintained in other properly
2 equipped, efficiently operated and administered, accredited hospitals in said community.

3 7. At all times herein mentioned Defendants DOES 151 through 189 were doing
4 business as a district or County hospital or clinic, and DOES 190-250, a hospital operated by a
5 government entity or medical clinic or hospital, open to the public, or a medical facility or clinic,
6 operated by a government entity open to the public rendering medical, surgical, hospital,
7 diagnostic, nursing and other care to the general public for compensation. All of the acts
8 complained of herein by Plaintiffs against said Defendants were done and performed by said
9 Defendants by and through their duly authorized agents, servants and employees, each of whom
10 and all of whom were at all times mentioned herein acting within the course, purpose, and scope
11 of their said agency, service and employment, and whose conduct was ratified by all Defendants,
12 and each of them.

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14 8. Plaintiffs are informed and believe and upon such information and belief allege
15 that at all times herein mentioned, Defendants and other Defendants named fictitiously, were
16 entities of unknown form unaffiliated with each other within the meaning of *Corporations Code*
17 Section 150, each acting independently and negligently in committing separate acts all to
18 Plaintiffs' injuries and damages.

19 I.

20 **PLAINTIFFS, MARIBEL VASQUEZ AND JOSEPH RIOS, ALLEGE FOR A**
21 **SPEARATE AND DISTICT FIRST CAUSE OF ACTION FOR WRONGFUL DEATH**
22 **OF MELODY RIOS AGAINST DEFENDANTS AND EACH OF THEM AS FOLLOWS:**

23 9. Plaintiffs MARIBEL VASQUEZ and JOSEPH RIOS, repeat and replead each and
24 every allegation contained in all prior paragraphs and incorporate the same herein by reference
25 as to Defendants and each of them.

26 10. At all times herein, MARIBEL VASQUEZ and JOSEPH RIOS were the parents
27 of the decedent MELODY RIOS. As such, the named Plaintiffs are heirs at law of the decedent,
28 MELODY RIOS.

1 11. At all times herein mentioned, the decedent MELODY RIOS was in the exclusive
2 control of the Defendants, and each of them, and that at no time prior to the events, conduct,
3 activities, care and treatment herein complained of did the Defendants herein, or any of them,
4 obtain knowledgeable, informed consent for said care, treatment or conduct; that prior to the
5 initiation of or performance of said care, treatment, procedure or conduct no opportunity was
6 afforded the Plaintiff's decedent or any authorized agent of the Plaintiff's decedent to exercise
7 voluntary, knowledgeable and informed consent to said care, treatment, procedure or conduct.
8

9 12. Prior to October 21, 2022, the date of Decedent's death, MELODY RIOS, who
10 was born October 21, 2022, and her mother MARIBEL VASQUEZ employed Defendants and
11 each of them, to diagnose and treat Decedent's medical conditions, and her labor and delivery,
12 and to do all things necessary for the mother's and decedent's medical care and treatment.

13 13. While Plaintiffs' decedent was under the sole and exclusive care and control of
14 the Defendants, and each of them, Defendants, and each of them negligently, carelessly and
15 unskillfully, examined, treated, triaged, utilized protocols and practices, cared for, diagnosed,
16 operated upon, delivered, consented, labored, transferred, performed anesthesia, attended and
17 otherwise handled and controlled the Plaintiff's Decedent herein, such that, as legal result,
18 Decedent died on October 21, 2022.

19 14. Defendant KAWEAH DELTA MEDICAL CENTER and DOES 101-150
20 neglected to adequately select a competent medical staff and to periodically review the
21 competency of its medical staff and failed to adequately monitor its staff such that Plaintiffs'
22 decedent and Plaintiffs were caused to and did suffer damages as alleged.

23 15. As a further legal result of the negligence of the Defendants, and each of them,
24 Plaintiffs were compelled to, and did, incur expenses for burial and all costs associated with that
25 burial.

26 16. As a direct and proximate result of the aforesaid negligence, carelessness and
27 unskillfulness of the Defendants, and each of them, and the resultant death of said decedent,
28 Plaintiffs have suffered the pecuniary loss of the love, affection, comfort, care, society,

1 companionship, protection, solace, moral support, physical assistance in the operation and
2 maintenance of the home, support and right to receive support from the decedent, all to their
3 damage in a sum in excess of the jurisdiction of the Superior Court.

4 17. Plaintiffs first suspected that the death of their child was the result of medical
5 negligence within the first week of the child's death which occurred on October 21, 2022.

6 II.

7 **PLAINTIFF KESLEY MILLER ALLEGES FOR A SPEARATE AND DISTICT**
8 **SECOND CAUSE OF ACTION FOR SURVIVAL AGAINST**
9 **DEFENDANTS AND EACH OF THEM AS FOLLOWS:**

10 18. Plaintiff MARIBEL VASQUEZ repeats and repleads each and every allegation
11 contained in the preceding paragraphs and incorporates the same herein by reference.

12 19. Plaintiff MARIBEL VASQUEZ is the successor in interest of MELODY RIOS
13 deceased, and she brings this cause of action in that capacity pursuant to *Code of Civil Procedure*
14 §§ 377.10, 377.11, and 377.30 et seq. in that she is decedent's mother. Plaintiff has or will execute
15 and file a declaration under penalty of perjury as required by *Code of Civil Procedure*, Section
16 377.32.

17 20. Prior to her death, MELODY RIOS incurred special damages as well as damages
18 for pain and suffering as a direct and proximate result of the acts and/or omissions of the
19 Defendants, and each of them, as herein alleged. The amount of these damages is in excess of the
20 minimum jurisdictional amount of the Superior Court and will be shown according to proof at
21 the time of trial.

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III.

**PLAINTIFF MARIBEL VASQUEZ ALLEGES FOR A SEPARATE AND DISTINCT
THIRD CAUSE OF ACTION FOR NEGLIGENT INFLECTION OF EMOTIONAL
DISTRESS AGAINST DEFENDANTS AND EACH OF THEM AS FOLLOWS:**

21. Plaintiff MARIBEL VASQUEZ repeats and repleads each and every allegation contained in the preceding paragraphs and incorporates the same herein by reference.

22. At all times herein mentioned, MARIBEL VASQUEZ was the mother of MELODY RIOS, the now deceased minor child, and was and is under a duty to care for the minor child herein. Plaintiff MARIBEL VASQUEZ employed said Defendants to care for and treat herself and her minor child, MELODY RIOS during the pregnancy.

23. At all times mentioned, said Defendants were under a legal duty to Plaintiff with respect to the care and treatment of the child, MELODY RIOS, while the child was a patient in the said hospital and under the care of the said Defendants. Said Defendants treated and cared for both the MELODY RIOS and MARIBEL VASQUEZ during the labor and delivery of MELODY RIOS and thereafter.

24. At all times mentioned, there existed a close relationship between Plaintiff MARIBEL VASQUEZ and MELODY RIOS namely, mother and child, and said Defendants were aware of this close relationship when they agreed to care for the child. It was foreseeable that Plaintiff MARIBEL VASQUEZ would be damaged directly by negligent acts or omissions to act and committed upon the child. Said Defendants were aware that Plaintiff MARIBEL VASQUEZ was concerned about the physical wellbeing of her child when Defendants agreed to treat both the child and mother.

25. It was reasonably foreseeable and easily predictable that any acts of negligence by these Defendants that would injure the child would lead to serious emotional distress in Plaintiff MARIBEL VASQUEZ. Because the risk of harm to the Plaintiff was reasonably foreseeable and easily predictable, Defendants owed Plaintiff a duty to exercise due care in diagnosing, caring

1 for, and treating Plaintiff's child, MELODY RIOS. This is especially true as Defendants agreed
2 to and did treat both MARIBEL VASQUEZ and MELODY RIOS at the same time.

3 26. Said Defendants in disregard of the probability that their actions would cause
4 severe emotional distress, in failing to provide the necessary medical treatment to Plaintiff
5 MARIBEL VASQUEZ and her child MELODY RIOS, caused Plaintiff MARIBEL VASQUEZ
6 severe emotional distress arising from the abnormal event of participating in a negligent delivery
7 and labor concerning her child MELODY RIOS, and reacting to the tragic outcome with fright
8 nervousness and shock, grief, anxiety, worry, mortification, shock, humiliation and indignity.

9 27. As a further legal result of the negligence of the Defendants, and of the resulting
10 injuries, Plaintiff will be obliged to incur expenses for medical care and hospitalization for an
11 indefinite period in the future and to pay for these expenses in the treatment and relief of injuries
12 for medical and surgical attention, hospitalization, nursing, medication, and incidentals for said
13 Plaintiff in an amount unknown to Plaintiff at present.

14 28. As a further legal result of the negligence of the Defendants, Plaintiff has suffered
15 loss of earnings and will suffer a decreased earning capacity in the future and future earnings to
16 Plaintiff's further damage in a sum unknown at present.

17 29. By reason of the negligence of said Defendants, Plaintiff MARIBEL VASQUEZ
18 suffered severe and serious emotional distress and shock and injury to her nervous system and
19 body, all to her general damage in a sum within the jurisdiction of this Court and pursuant to
20 *Burgess v. Superior Court* (1992) 2 Cal.4th 1064.

21 WHEREFORE, Plaintiffs pray:

22 **FOR THE FIRST CAUSE OF ACTION FOR WRONGFUL DEATH:**

- 23
- 24 1. General and non-economic damages, according to proof;
 - 25 2. All economic, special and funeral and burial expenses, according to proof;
 - 26 3. Costs of suit incurred herein, and
 - 27 4. For such other and further relief as to the Court appears just and proper.
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FOR THE SECOND CAUSE OF ACTION FOR SURVIVAL:

1. General damages for pre-death pain and suffering, according to proof;
2. Special damages, according to proof;
3. Costs of suit incurred herein, and
4. For such other and further relief as to the Court appears just and proper.

**FOR THE THIRD CAUSE OF ACTION FOR NEGLIGENT INFLECTION OF
EMOTIONAL DISTRESS:**

1. General damages, according to proof;
2. Special damages, according to proof;
3. Costs of suit incurred herein, and
4. For such other and further relief as to the Court appears just and proper.

DATED: July 5, 2023,

LAW OFFICES OF BRUCE G. FAGEL & ASSOC.

By: Vadim Braslavsky
Bruce G. Fagel
Vadim Braslavsky
Attorneys for Plaintiffs

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California, I am over the age of eighteen years and not a party to the within action; my business address is ***9200 West Sunset Boulevard, Suite 670, West Hollywood, California 90069***, My Electronic address is ***cynthia@fagellaw.com***.

On **JULY 5, 2023**, I served the foregoing document (s) described as **FIRST AMNEDED COMPLAINT**, on the following parties in this action as set forth on the attached service list as follows:

SEE ATTACHED SERVICE LIST

- ☒ **BY MAIL:** I placed a true copy of the above captioned documents for collection and processing for mailing, following this business' usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.
- ☐ **BY OVERNIGHT MAIL:** By sealing the envelope and placing it for collection and overnight delivery in a box regularly maintained by an overnight delivery service with delivery fees paid or provided for in accordance with ordinary business practices.
- ☐ **BY ELECTRONIC TRANSFER/VIA FACSIMILE:** I caused all of the pages of the above-entitled document(s) to be sent to the recipients noted above via electronic transfer (FAX) at the respective telephone numbers indicated above.
- ☒ **BY ELECTRONIC SERVICE:** Pursuant to Code of Civil Procedure §1010.6(a)(2)(A)(i), 1010.6(a)(2)(A)(ii), and/or necessity resulting from the Safer at Home order/regulation issued by the City and County of Los Angeles effective March 20, 2020: from my email address ***cynthia@fagellaw.com*** to the e-mail address(es) listed on the ATTACHED SERVICE LIST.
- ☒ **STATE:** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **JULY 5, 2023**, at West Hollywood, California.

Cynthia Mardis

Cynthia Mardis

SERVICE LIST

Maribel Vasquez, Joseph Rios vs. Kaweah Delta Health Care District

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